

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NO: 1:05-CR-10204-GAO

UNITED STATES OF AMERICA

v.

PAUL HICKS

THE DEFENDANT'S MOTION TO CONSIDER HIS APPEAL TIMELY FILED

The defendant, Paul Hicks, moves this court to issue an ORDER deeming his appeal timely filed by enlarging the time for filing his notice of appeal from a final judgment entered by the court on May 30, 2007 until June 16, 2007 which is seventeen (17) days after the final judgment and within seven (7) days of the initial ten (10) day period under F.R.A.P. 4(b). In support thereof counsel for the defendant asserts the following:

1. On May 30, 2007 the defendant received a committed sentence of three hundred and sixty (360) months followed by a period of supervised release.
2. Counsel for the defendant filed a notice of appeal on behalf of the defendant on June 15, 2007.
3. The notice of appeal was filed six (6) days late but well within the thirty (30) days of the initial ten (10) day period.

4. The defendant was not in any way responsible for the late filing.
5. During the months of April, May, and June counsel for the defendant experienced several personal and professional hardships that contributed to the late filing.
6. Counsel's wife underwent several medical tests during that period that caused counsel to miss time at work.
7. Counsel's secretary was undergoing chemotherapy that led to a significant backload of case work.
8. Counsel was burdened by a trial schedule that included eighteen (18) scheduled jury trials.
9. It is in the interests of justice to allow this motion.

CONCLUSION

Counsel respectfully moves this court to allow the motion.

By his attorney,

/s/ Joseph F. Krowski Jr.
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Dated: July 17, 2007